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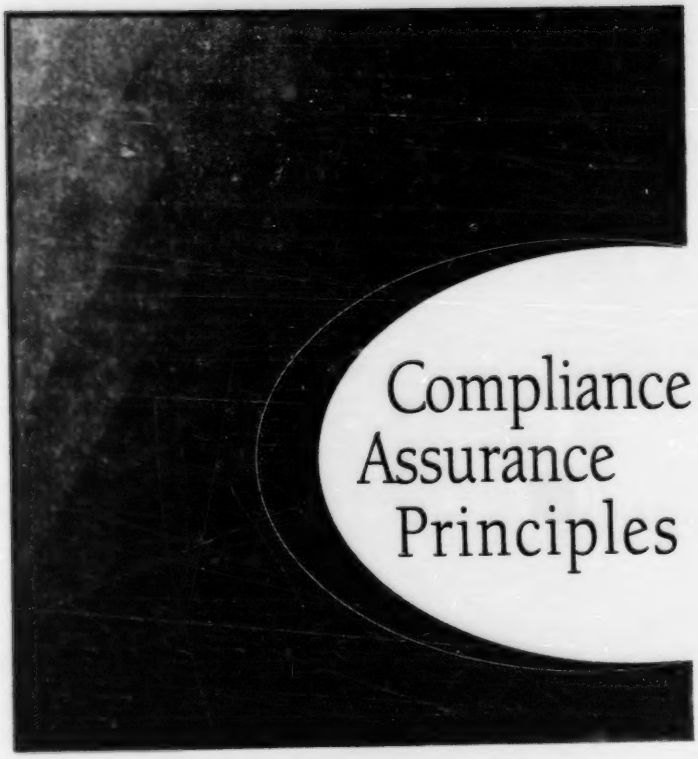

Compliance Assurance Principles

Alberta
ENVIRONMENT

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Foreword

Compliance Assurance Principles

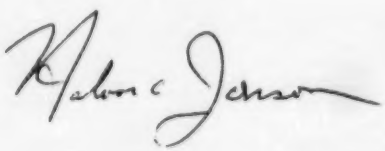
Alberta Environment is responsible for the protection of the environment, and the protection and management of Alberta's renewable natural resources. In doing this, we are accountable to the public and to the regulated community. The department is also responsible for meeting the government's many commitments including sustainable resource and environmental management, regulatory reform, and community-level (and client) service.

Alberta Environment's *Compliance Assurance Principles* is a tool to help us meet our responsibilities. This document is the product of a major review of our compliance assurance business.

Compliance Assurance Principles describes how Alberta Environment will, and in many cases already does, use education, prevention and enforcement tools to ensure compliance with legislation for which we are responsible. Responsibility for the compliance assurance principles will be shared with others responsible for delivering the department's legislation. (For example, Alberta Agriculture, Food and Rural Development manages public land in the White Area, pursuant to the *Public Lands Act* and the *Environmental Protection and Enhancement Act*.)

Our legislation and compliance assurance programs will be updated to meet these compliance assurance principles. The principles will also help us plan and report on our compliance assurance activities, and measure the effectiveness of our compliance assurance programs. These measures will help us achieve our department's mission, goals and strategies, and they will provide us with information on how to better manage our responsibilities.

Working together, Alberta Environment and the people of Alberta will meet our goal of "*compliance with all Alberta Environment legislation, as well as provincial and federal legislation which Alberta Environment staff are responsible for enforcing, in order to protect the environment and the public, and to effectively protect and manage Alberta's natural resources.*"



Halvar Jonson
Minister of Environment

Table of Contents

Introduction 1

Overview 1
Purpose/Scope 3
Roles and Responsibilities 3

Compliance Assurance Principles

I. Alberta Environment's Compliance Assurance Goal 5

II. Core Principles 5

III. Conduct and Identification, Training and Legal Authority for Staff 6

IV. Education and Prevention 7

Education/Prevention (General) 7
Compliance Assessments 9

V. Reports of Non-Compliance 10

VI. Investigations 10

VII. Enforcement Responses 11

Enforcement Responses Available 11
Applying Enforcement Responses 14
Ensuring Procedural Fairness and Administrative Jurisdiction for AENV Administrative Enforcement Responses 16
After an Enforcement Response is Issued 19

VIII. Debts and Cost Recovery 20

Appendices

Appendix A

Acts, Regulations and Codes of Practice
which Alberta Environment enforces or uses in its compliance assurance program 21

Appendix B

Documents Describing AENV's Compliance Assurance Business 25

Appendix C

Collection and Release of Information Regarding Compliance Assessment and Enforcement 27

Introduction

Overview

Alberta Environment (AENV) is responsible for protecting Alberta's environment and for managing and protecting its renewable resources. The department is accountable to the public and to the regulated community. To meet this responsibility, the department's three Services (Natural Resources Service, Land and Forest Service, and Environmental Service) undertake compliance assurance activities in their administration of numerous provincial and federal Acts and regulations (**see Appendix A**). Other bodies help AENV achieve its responsibilities through their specific compliance assurance activities. For example, AFRD, through the AENV-AFRD Shared Stewardship Accord, is responsible for the management of public land in Alberta's White Area.

Compliance with legislative requirements is a necessity. Compliance assurance activities are those undertaken to ensure that regulated parties comply with legislation. These activities include promoting compliance through education and prevention initiatives and compelling compliance through enforcement responses. A "regulated party" is an individual or corporation carrying out an activity/operation regulated under legislation administered or enforced by AENV.

AENV's *Compliance Assurance Principles* provides the department's overall direction for its compliance assurance business. The document represents AENV's forward thinking approach to ensuring consistent, co-ordinated and effective delivery of the department's compliance assurance activities. Where necessary to clarify how the principles will be delivered, AENV will develop guidelines and approaches that provide specific details the department will use to help apply its broad range of compliance assurance tools consistently. For example, Appendix C describes how AENV collects and provides access to information from its compliance assessment and enforcement activities.

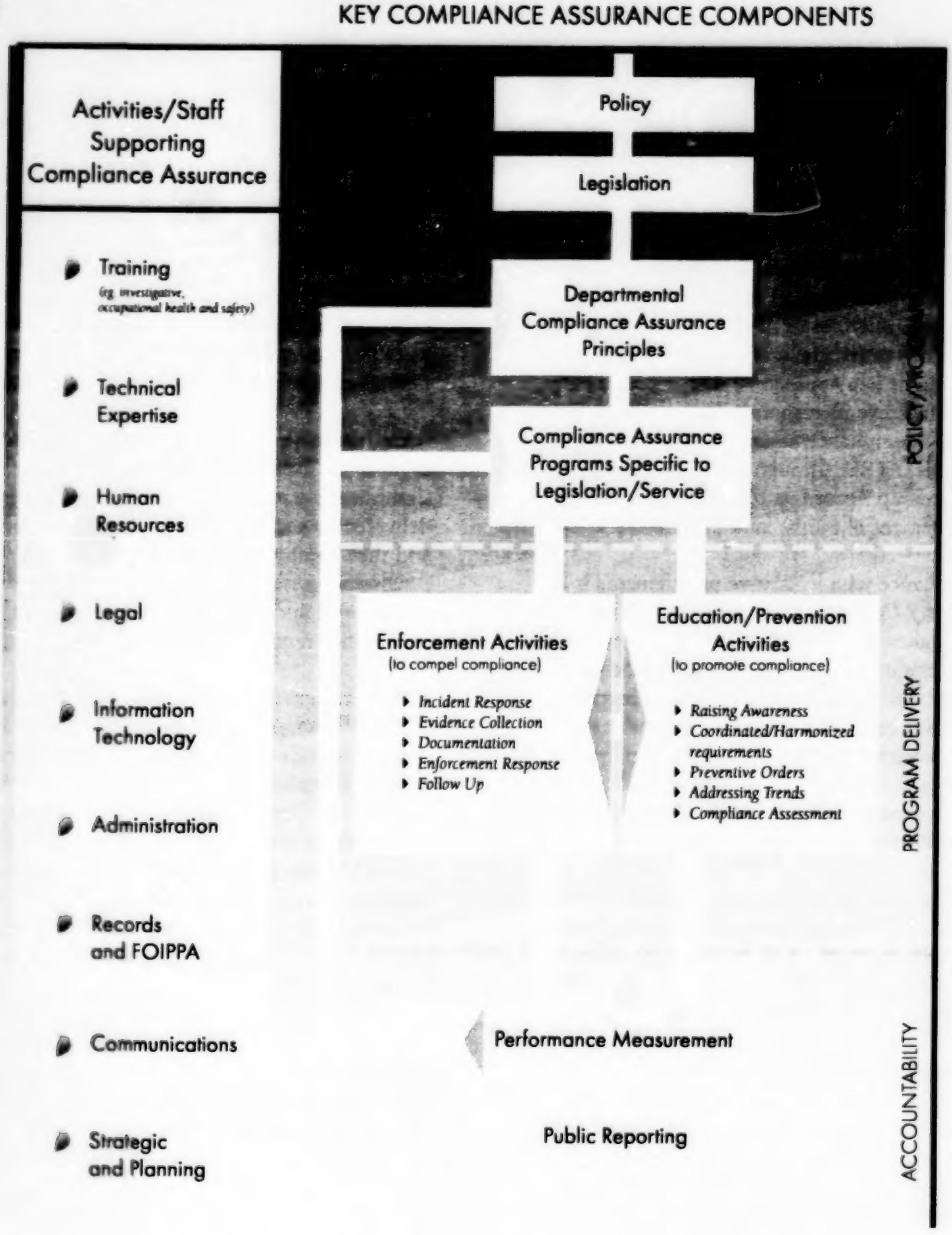
The scope of AENV's compliance assurance business is encompassed by AENV's *Compliance Assurance Principles*, the legislation for which AENV is responsible, and the documents describing each Service's compliance assurance program. A comprehensive list of these documents is included in Appendix B. The compliance assurance activities of AENV are also guided by other key pieces of legislation such as Alberta's *Freedom of Information and Protection of Privacy Act* and the *Canadian Charter of Rights and Freedoms*.

Some legislative changes will be necessary for AENV to meet its *Compliance Assurance Principles*. Compliance assurance documents and programs delivered by each of AENV's Services will be revised and then continually reviewed to maintain consistency with the principles. The principles will be reviewed and updated on a regular basis to ensure they remain relevant.

Performance measures will assess the effectiveness of AENV's compliance assurance programs and thereby provide information on the effectiveness of AENV's *Compliance Assurance Principles*. This measurement information, along with strategic intelligence information, will help AENV revise the principles (and in turn, department programs and legislation) so that the department continues to improve how it protects, enhances and ensures the wise use of Alberta's environment and renewable natural resources.

Illustration 1 "Compliance Assurance Framework" describes the relationships of key compliance assurance components and the activities/staff supporting compliance assurance.

Illustration 1: Compliance Assurance Framework



PURPOSE/SCOPE

AENV's *Compliance Assurance Principles* are designed to do the following:

(a) Describe AENV's approach to ensuring compliance;

(b) Maintain and enhance AENV's credibility by ensuring consistency, clarity, and co-ordination in AENV's compliance assurance activities;

(c) Embody AENV's vision and direction for the future of its compliance assurance programs (i.e. this is a forward looking document, it does not merely describe existing approaches); and

(d) Provide standards for assessing and measuring the effectiveness and efficiency of AENV's compliance assurance activities.

The *Compliance Assurance Principles* provides the minimum requirements for the development and overall delivery of legislation-specific compliance assurance programs/activities. These legislation-specific compliance assurance programs/activities include detailed procedures and requirements. The application of AENV's *Compliance Assurance Principles* to legislation-specific compliance assurance program/activities ensures a consistent, harmonized, departmental approach to the delivery of AENV's legislation and policies.

Each AENV Service and other agencies (when legislation has been delegated to them by the Minister of Environment) will follow the *Compliance Assurance Principles* in the development and delivery of their compliance assurance programs/activities.

ROLES AND RESPONSIBILITIES

The following are the roles and responsibilities of AENV's Compliance Division, Services, and individual staff for the development and implementation of the department's *Compliance Assurance Principles* and compliance assurance programs and activities:

Compliance Division will do the following:

- Develop and maintain AENV's Compliance Assurance Principles and associated initiatives;
- Consider information and suggestions from the Services regarding AENV's Compliance Assurance Principles, programs, policies and legislation;
- Identify trends and issues relating to compliance assurance and make recommendations to Service Head Offices;
- Review the delivery of Service and other compliance assurance programs for consistency and conformance with AENV's Compliance Assurance Principles; and
- Review and measure the effectiveness of AENV's Compliance Assurance Principles and associated initiatives.

Services will do the following:

- Provide suggestions and advice to Compliance Division on the development and review of AENV's *Compliance Assurance Principles* and associated departmental initiatives, programs, policies and legislation;
- Develop compliance assurance program(s), policies, and administrative practices consistent with AENV's *Compliance Assurance Principles*, for delivering the specific legislation for which the Services are responsible;
- Ensure Service activities are consistent with AENV's Compliance Assurance Principles;
- Review and address issues identified by Compliance Division relating to AENV's Compliance Assurance Principles; and
- Co-ordinate with other areas of the department responsible for compliance assurance programs related to the same activities/operations.

Individual AENV staff will do the following:

- Meet AENV's *Compliance Assurance Principles* by carrying out compliance assurance activities (education, prevention and enforcement) according to compliance assurance programs they are responsible for delivering under specific legislation;
- Apply a departmental perspective and approach to compliance assurance activities;
- Ensure that they report non-compliance incidents they encounter to appropriate areas of AENV/AFRD; and
- Advise where AENV and Service compliance assurance principles, programs, policies and legislation could be improved.

I ALBERTA ENVIRONMENT'S COMPLIANCE ASSURANCE GOAL

Alberta Environment's compliance assurance goal is:

> ***Compliance with all Alberta Environment legislation, as well as provincial and federal legislation which Alberta Environment staff are responsible for enforcing, in order to protect the environment and the public, and to effectively protect and manage Alberta's natural resources.***

II CORE PRINCIPLES

1. Education, prevention and enforcement will be used to achieve compliance with legislation administered by AENV.
2. Legislative requirements will be clear, enforceable and widely known within the regulated community and the public.
3. All staff undertaking compliance assurance activities will have adequate training and authority to enable them to carry out their duties. Staff will carry out their duties in a competent, safe and professional manner.
4. Compliance assurance activities will be delivered in a lawful, fair, consistent and timely manner.
5. Every suspected violation that comes to the attention of AENV will be assessed and responded to in an appropriate and timely manner.
6. AENV responses to non-compliance will consider all applicable AENV legislation and will use the most appropriate legislation and compliance assurance response.
7. Enforcement will be firm and fair.
8. Enforcement will use remediation, deterrence and/or punishment to ensure compliance with legislation. Enforcement responses will be based on a "polluter pays"/"resource restitution" philosophy.
9. Follow-up to enforcement responses will be taken to bring the situation into compliance and, where appropriate, to recover AENV's costs associated with bringing the situation into compliance.
10. AENV will measure and report on the effectiveness of its compliance assurance programs and activities.
11. AENV will foster partnerships with other government agencies and the public to promote compliance.

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III CONDUCT AND IDENTIFICATION, TRAINING AND LEGAL AUTHORITY FOR STAFF

The conduct, identifiability, training and legal authority of AENV's staff helps ensure effective, consistent, co-ordinated delivery of AENV's compliance assurance programs.

CONDUCT AND IDENTIFICATION

1. AENV staff carrying out compliance assurance activities will fulfill the following criteria and responsibilities:

   a) be identifiable;

   b) use their legislative authority in compliance with all applicable legislation.

   c) act in an appropriate and professional manner;

   d) explain the nature and purpose of their activities; and

   e) be subject to a consistent disciplinary procedure to address any complaints or disciplinary matters regarding their actions.

TRAINING AND LEGAL AUTHORITY

Staff carrying out compliance assurance activities are authorized in the following two key ways under legislation to undertake compliance assessment and enforcement activities:

- **through power granted to the Minister under an Act being delegated to a specific position, or**
- **through an Act granting certain powers to a specific position other than the Minister.**

Staff obtain legal authority to use the powers when they are designated to the specific position that has the powers. Under some AENV legislation, a director can delegate their statutory powers (i.e. power that has been granted to them under the Act) to an acting director.

2. All AENV staff who may carry out compliance assurance activities will receive training and equipment appropriate for those activities.

3. Legal authority provided to staff will fulfill the following conditions:

   a) it will include only those powers necessary to allow staff to effectively perform their mandated duties;

   b) it will be provided only when the staff member has successfully completed the training necessary to effectively and competently exercise the authority and powers provided; and

   c) when provided, it will include a clear description(s) of the authority and powers conferred by the designation or delegation.

4. Training will be ongoing to ensure that staff are kept up to date on the latest compliance assurance techniques and philosophies.

5. All appropriate AENV staff will have a basic awareness of the following:

   a) AENV's compliance assurance activities;

   b) how to recognize and report possible non-compliance with legislation for which AENV is responsible;

   c) officially induced errors and how to avoid causing them; and

   d) AENV's various roles and responsibilities for compliance assurance activities.

6. AENV staff involved in compliance assurance activities will be "professional observers", able to do the following:

   a) recognize and report infractions of legislation for which AENV is responsible; and

   b) collect preliminary evidence for legislation that they are not primarily responsible for administering.

7. AENV staff who receive and record reports of non-compliance will be trained so that the quality and completeness of reports of non-compliance is maintained.

IV EDUCATION AND PREVENTION

Most of the Department's compliance assurance activities relate to the education and prevention aspects of compliance assurance. Education and prevention activities promote compliance in the regulated sectors by raising awareness regarding: legislative requirements and their purposes, how to comply with the requirements, and the consequences of non-compliance. Education and prevention activities include compliance assessments which is defined on page 9.

EDUCATION/PREVENTION (General)

1. AENV will undertake ongoing reviews of its legislative requirements and authorizations to ensure that they are enforceable, consistent, clear, measurable, and achievable.

2. When more than one piece of AENV legislation regulates an activity/operation, AENV will ensure that it co-ordinates its legislative and authorization requirements to ensure they are harmonized, complement each other, and do not conflict.

3. When more than one piece of AENV legislation regulates an activity/operation, AENV will ensure that its guidance documents are co-ordinated and provide consistent and clear information.

4. Where appropriate, AENV will use compulsory monitoring and reporting requirements in legislation/authorizations to cause regulated parties to track, record, assess and report their compliance with legislative/authorization requirements.

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3. When more than one piece of AENV legislation regulates an activity/operation, AENV will ensure that its guidance documents are co-ordinated and provide consistent and clear information.

4. Where appropriate, AENV will use compulsory monitoring and reporting requirements in legislation/authorizations to cause regulated parties to track, record, assess and report their compliance with legislative/authorization requirements.

5. AENV will use legislation-based orders to prevent environmental, natural resource and/or safety problems (for example, preventive orders include Environmental Protection Orders and Directions of an Inspector under the *Environmental Protection and Enhancement Act*, and Water Management Orders under the *Water Act*).

6. AENV will encourage the regulated sectors to develop and implement self-improvement approaches/methodologies, best available technology, best practices and innovation aimed at assuring compliance (for example, environmental management systems and stewardship programs).

7. When AENV finds potential and/or existing minor non-compliance, it will notify the regulated party or parties of the non-compliance. In circumstances of existing minor non-compliance, AENV may provide the regulated party or parties with an opportunity to address the minor non-compliance.

8. AENV will encourage the regulated sectors to be proactive in addressing potential non-compliance issues as they arise.

9. AENV will maintain and enhance its visible and perceived presence to demonstrate to the regulated community that the department is vigilant, aware and committed to assuring that activities and operations comply with legislation.

10. AENV will make public, on a regular basis, summaries of all AENV enforcement responses.

11. AENV will raise public and regulated community awareness of AENV's legislative requirements, why they exist, what is required to comply with them, and how to identify and report incidents of non-compliance.

12. AENV will prioritize its compliance education activities to focus on issues and regulated parties where there is:

    a) a need to increase compliance;

    b) significant potential impact associated with non-compliance; and

    c) an ability to influence behaviour.

13. AENV will acknowledge regulated parties and sectors who have a history of performing better than the minimum requirements to achieve compliance, or who have substantially improved their record of compliance.

14. AENV will encourage regulated community associations to develop their own initiatives to promote compliance, such as prevention and education programs, codes of conduct, and security funds (for example, "environmental protection" security funds).

15. AENV will develop partnerships with government and non-government agencies, the academic community, special interest groups and the public to conduct education and prevention activities/initiatives that promote compliance.

16. AENV will identify and forecast issues and trends relevant to compliance assurance in the activities/operations that it regulates. AENV will then take steps to strategically address concerns and issues using methods such as updating/modifying AENV's *Compliance Assurance Principles*, legislation, authorization processes and other practices.

Compliance Assessments

A compliance assessment is an activity undertaken to determine whether a regulated party's activity/operation complies with a statute, regulation, authorization or Code of Practice. Examples of types of AENV authorizations include approvals, permits, licences, dispositions, registrations, notifications and certificates. Compliance assessments educate the regulated party on legislative requirements and also identify current or potential non-compliance. AENV's compliance assessments include:

- **Inspections - Site/field evaluations,**
- **Reviews - Assessments of compulsory monitoring reports, registrations, records and other required submissions, and**
- **Audits - Site/field examinations to verify that designated methods and procedures for data gathering and/or collection meet all quality assurance/quality control criteria.**

17. AENV's compliance assessments will:

    a) use announced and unannounced inspections, reviews and audits to verify that regulated activities and operations comply with applicable legislation for which AENV is responsible; and

    b) be co-ordinated for operations/activities regulated by more than one piece of AENV legislation.

18. AENV will annually develop and make available to the public a compliance assessment plan that:

    a) assesses a broad range of regulated activities/ operations;

    b) over the long term, assesses a sample of each regulated sector on a regular basis;

    c) targets particular activities/operations based on environmental/resource management priorities as determined by the following:

        i) the risk to the resource or environment associated with a particular activity/ operation;
        ii) the history of compliance of regulated parties associated with the activity/operation; and
        iii) information about trends and emerging resource management issues as determined from strategic analysis; and

    d) sets goals for the number and types of assessments to be conducted annually.

19. AENV will summarize and report annually on the following:

    a) compliance assessment activities undertaken;

    b) the results of compliance assessment activities, including the level of compliance by regulated operations/ activities; and

    c) responses taken as a result of non-compliance detected through compliance assessments.

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V REPORTS OF NON-COMPLIANCE

The public plays a key role in providing information to help detect non-compliance.
The department becomes aware of potential non-compliance through reactive and proactive "reports of non-compliance." Reactive reports of non-compliance include public complaints/ reporting, compulsory reporting, observations by AENV staff and formal requests for investigation made in accordance with legislation.
Proactive reports of non-compliance occur when non-compliance is found during AENV's proactive compliance assessment activities.

AENV will do the following for reports of non-compliance:

1. AENV will facilitate and encourage reporting of possible non-compliance.
2. AENV will ensure that each report of non-compliance is forwarded to the proper response group.
3. AENV will ensure that each report of non-compliance receives a timely and appropriate response.
4. AENV will use a "one contact" approach to reports of non-compliance (in which the reporter needs to contact only one person in AENV in order to report a non-compliance).
5. When requested, and subject to applicable legislation, AENV will ensure the protection of the identity (anonymity) of those who report potential non-compliance.

VI INVESTIGATIONS

An investigation is an evidence gathering activity, undertaken to substantiate or dismiss an alleged contravention. Investigations may involve taking statements, securing physical evidence, and carrying out search warrants, arrests and seizures.

AENV's investigations will be conducted in the following manner:

1. AENV will assess reports of non-compliance and investigate when there are reasonable grounds to believe that there is non-compliance.
2. AENV will co-ordinate investigations that may involve more than one functional area or piece of legislation for which AENV is responsible.
3. AENV will ensure clear lines of accountability and responsibility for the conduct of each investigation.
4. AENV will consider and appropriately use all AENV legislation applicable to the non-compliance issue.
5. AENV will ensure the effective and efficient conduct of investigations with the maximum use of departmental expertise. This will be done by ensuring AENV's technical resources and investigative expertise are fully utilized.

6. AENV's investigations will be conducted, completed and documented in a thorough and timely manner that preserves the availability of all potential enforcement responses and ensures the investigation's integrity.

7. AENV will use court mechanisms to ensure investigations can be properly concluded in a timely manner (for example, court orders to allow access and/or prohibit interference with an investigation).

8. Where appropriate, AENV will co-ordinate its investigations with other provincial and federal agencies.

VII ENFORCEMENT RESPONSES

Enforcement Responses Available

AENV's choice of enforcement responses depends on the circumstances of the particular case. AENV's enforcement responses have one or more of the following purposes:

- Remedy - to correct non-compliance, to correct the cause of an environmental or natural resource management problem and to mitigate any damage/losses;
- Deter - to generally discourage future violators and/or specifically discourage repeat violations by a specific violator; and
- Punish.

The following are AENV's enforcement responses, their purposes and specific principles for their use:

- **Remedial Order**: Used to compel a person to remedy a contravention and, as appropriate, to require actions to prevent future contraventions. Examples of remedial orders include enforcement orders, eviction orders, and stop orders.

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- **Remedial Order**: Used to compel a person to remedy a contravention and, as appropriate, to require actions to prevent future contraventions. Examples of remedial orders include enforcement orders, eviction orders, and stop orders.

- **Written Warning**: Used to deter a specific recipient and to create a record of the contravention. After a written warning has been issued, subsequent non-compliance may lead to a more significant enforcement response. Examples of written warnings include written field warnings and warning letters.

1. A written warning will be considered when all of the following criteria are met:

   a) the non-compliance was minor in AENV's regulatory scheme;

   b) the effect or potential adverse effect on the environment, natural resource, or human health and safety as a result of the non-compliance appears minimal;

   c) the offender has taken sufficient steps to remedy or minimize the non-compliance or its effects;

   d) the offender has a history of compliance; and

   e) there is a reasonable belief that the written warning will achieve the desired specific deterrence on future behaviour. The number of written warnings the offender previously received is a consideration in determining whether another written warning will likely deter future non-compliance.

2. Documents described as, or that provide, a warning about a contravention are an enforcement response.

3. Verbal warnings and documents providing notice of non-compliance or informally requesting steps be taken are educational or preventive, and are not an enforcement response.

4. A written warning will state that a more significant enforcement response may be taken for a subsequent contravention.

- **Administrative Penalty**: A monetary penalty assessed by the department. An administrative penalty has a specific and a general deterrent effect. The legislation specifies the contraventions for which administrative penalties are available.

5. Administrative penalties will be issued where the nature or the effect of the contravention makes prosecution inappropriate or unavailable.

6. Administrative penalties will not be available in the following situations:

   a) offences in which intent ("knowingly") is required;
   b) offences that involve falsification/concealment of information, fraud, or interference with an investigation; or
   c) the most serious contraventions (for example, causing a significant adverse effect on the environment, resource or regulatory scheme).

   In these situations, prosecution is the most appropriate enforcement response.

7. Prosecutions will be available for most contraventions for which administrative penalties are available.

8. Before the initial (notification) letter is sent informing the subject of the potential administrative penalty, the letter and the investigation file material will be reviewed by someone other than the investigator, to ensure the appropriate legislation and enforcement response are being used.

9. The criteria for determining the amount of an administrative penalty will be set out in legislation.

10. The amount of an administrative penalty (within the range under the particular legislation) will depend on the facts of the case, the subject's enforcement history, the adverse effect on the environment or resource, and precedents.

11. A notice of an administrative penalty will not be issued later than two years from either the time of the contravention or the time at which evidence of the contravention first came to the attention of the department, whichever is later.

12. The processes for appealing AENV's administrative penalties will be consistent.

- **Cancellation/Suspension/Restriction of Authorization:** Used as a deterrent and has a punitive effect. (Examples of authorizations include approvals, licences, permits, dispositions, certificates of qualification, notifications and registrations.)

13. Cancellation, suspension, or restriction of an authorization will be considered under the following circumstances:

    a) there is a serious situation of non-compliance;

    b) the non-compliance caused or has the potential to cause a significant adverse effect to the environment or a natural resource;

    c) there have been multiple or repeat offences for which other tools have been ineffective;

    d) cancellation/suspension/restriction of the authorization serves the public interest (for example, to address competency issues);

    e) there is evidence of the subject's intention to contravene the legislation; or

    f) the authorization was based on false or misleading information.

- **Prosecution:** AENV initiates the following prosecutions as a punitive measure, which has general and specific deterrence effects:
  - Specified penalty violation tickets: issued under the *Provincial Offences and Procedures Act*, and generally used for less serious offences. The violator may plead guilty and pay a penalty without a court appearance.
  - Mandatory court appearances: generally used for more serious offences.

14. Alberta Justice and/or Justice Canada will be contacted at a sufficiently early stage to ensure that the prosecutor's evidentiary and other prosecutorial needs are met.

15. AENV will consider initiating a prosecution that requires a court appearance, for offences that meet any of the following criteria:

    a) have or may have a significant adverse effect on the environment or a natural resource;

    b) have or may have a significant effect on the regulatory scheme (for example, jeopardizing authorization schemes such as approvals and notifications);

    c) are committed knowingly (intentionally), or involve fraudulent circumstances;

    d) relate to interference with an investigation, the submission of misleading information, or the concealment of information;

    e) are a result of failing to take reasonable steps to comply with an order;

    f) result in death or bodily harm; or

    g) are multiple or repeat offences.

16. A prosecution will not be initiated for a contravention for which an administrative penalty has been levied and paid, or a written warning has been issued.

17. After AENV lays charges, recommends a prosecution, or seeks advice from an Alberta Justice prosecutor about the details of a specific case, the prosecutor becomes the decision-maker on whether and how the case will proceed.

- **Written Warning**: Used to deter a specific recipient and to create a record of the contravention. After a written warning has been issued, subsequent non-compliance may lead to a more significant enforcement response. Examples of written warnings include written field warnings and warning letters.

1. A written warning will be considered when all of the following criteria are met:

   a) the non-compliance was minor in AENV's regulatory scheme;

   b) the effect or potential adverse effect on the environment, natural resource, or human health and safety as a result of the non-compliance appears minimal;

   c) the offender has taken sufficient steps to remedy or minimize the non-compliance or its effects;

   d) the offender has a history of compliance; and

   e) there is a reasonable belief that the written warning will achieve the desired specific deterrence on future behaviour. The number of written warnings the offender previously received is a consideration in determining whether another written warning will likely deter future non-compliance.

2. Documents described as, or that provide, a warning about a contravention are an enforcement response.

3. Verbal warnings and documents providing notice of non-compliance or informally requesting steps be taken are educational or preventive, and are not an enforcement response.

4. A written warning will state that a more significant enforcement response may be taken for a subsequent contravention.

- **Administrative Penalty**: A monetary penalty assessed by the department. An administrative penalty has a specific and a general deterrent effect. The legislation specifies the contraventions for which administrative penalties are available.

5. Administrative penalties will be issued where the nature or the effect of the contravention makes prosecution inappropriate or unavailable.

6. Administrative penalties will not be available in the following situations:

   a) offences in which intent ("knowingly") is required;
   b) offences that involve falsification/concealment of information, fraud, or interference with an investigation; or
   c) the most serious contraventions (for example, causing a significant adverse effect on the environment, resource or regulatory scheme).

   In these situations, prosecution is the most appropriate enforcement response.

7. Prosecutions will be available for most contraventions for which administrative penalties are available.

8. Before the initial (notification) letter is sent informing the subject of the potential administrative penalty, the letter and the investigation file material will be reviewed by someone other than the investigator, to ensure the appropriate legislation and enforcement response are being used.

9. The criteria for determining the amount of an administrative penalty will be set out in legislation.

10. The amount of an administrative penalty (within the range under the particular legislation) will depend on the facts of the case, the subject's enforcement history, the adverse effect on the environment or resource, and precedents.

11. A notice of an administrative penalty will not be issued later than two years from either the time of the contravention or the time at which evidence of the contravention first came to the attention of the department, whichever is later.

12. The processes for appealing AENV's administrative penalties will be consistent.

- **Cancellation/Suspension/Restriction of Authorization:** Used as a deterrent and has a punitive effect. (Examples of authorizations include approvals, licences, permits, dispositions, certificates of qualification, notifications and registrations.)

13. Cancellation, suspension, or restriction of an authorization will be considered under the following circumstances:

    a) there is a serious situation of non-compliance;

    b) the non-compliance caused or has the potential to cause a significant adverse effect to the environment or a natural resource;

    c) there have been multiple or repeat offences for which other tools have been ineffective;

    d) cancellation/suspension/restriction of the authorization serves the public interest (for example, to address competency issues);

    e) there is evidence of the subject's intention to contravene the legislation; or

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    - Specified penalty violation tickets: issued under the *Provincial Offences and Procedures Act*, and generally used for less serious offences. The violator may plead guilty and pay a penalty without a court appearance.

    - Mandatory court appearances: generally used for more serious offences.

14. Alberta Justice and/or Justice Canada will be contacted at a sufficiently early stage to ensure that the prosecutor's evidentiary and other prosecutorial needs are met.

15. AENV will consider initiating a prosecution that requires a court appearance, for offences that meet any of the following criteria:

    a) have or may have a significant adverse effect on the environment or a natural resource;

    b) have or may have a significant effect on the regulatory scheme (for example, jeopardizing authorization schemes such as approvals and notifications);

    c) are committed knowingly (intentionally), or involve fraudulent circumstances;

    d) relate to interference with an investigation, the submission of misleading information, or the concealment of information;

    e) are a result of failing to take reasonable steps to comply with an order;

    f) result in death or bodily harm; or

    g) are multiple or repeat offences.

16. A prosecution will not be initiated for a contravention for which an administrative penalty has been levied and paid, or a written warning has been issued.

17. After AENV lays charges, recommends a prosecution, or seeks advice from an Alberta Justice prosecutor about the details of a specific case, the prosecutor becomes the decision-maker on whether and how the case will proceed.

18. After a prosecution is initiated, AENV staff will facilitate the process by providing support, as requested by the prosecutor, throughout the

    prosecution process. This support will include the following:

    a) providing the prosecutor with sufficient background information documenting the matter, including the decision to proceed with a prosecution; and

    b) ensuring timely submission of documentation required by the prosecutor.

Applying Enforcement Responses

19. AENV will ensure that a full range of appropriate enforcement responses is available and that these enforcement responses are appropriately considered and used to achieve the desired effect(s).

20. All AENV legislation applicable to the non-compliance issue will be considered and used appropriately.

21. AENV's enforcement responses will be timely, firm, fair, consistent and appropriate.

22. AENV will implement processes to ensure that over time, and throughout the province and regulated community, enforcement responses for similar contraventions and circumstances are effective and consistent across legislation.

    These processes will include mechanisms to review/consider past enforcement responses and mechanisms to ensure that enforcement documents have consistent, effective and relevant content and format.

23. AENV's enforcement responses will be co-ordinated when they involve either more than one functional area of AENV/ AFRD or more than one piece of legislation for which AENV is responsible.

24. Where appropriate, AENV will co-ordinate its enforcement response(s) with other provincial and federal agencies.

25. AENV will issue an enforcement response only after a complete investigation provides sufficient evidence of non-compliance.

26. AENV enforcement decisions will be made only by staff authorized to make the decision. These decision-makers will be accountable for their decisions.

27. AENV will implement mechanisms to ensure that enforcement response decisions are made on a timely basis (without undue delay).

28. When choosing an enforcement response, the decision-maker will only consider factors relevant to the matter which are documented during the decision making process. The decision-maker will not negotiate enforcement responses.

29. Decision-makers will consider the following relevant factors in choosing an enforcement response:

    a) nature of the incident and seriousness of the adverse or potential adverse effect on the following:

        i) public safety;
        ii) the environment or natural resource;
        iii) human health; or
        iv) property;

    b) offender's compliance history under all relevant legislation;

    c) consistency with AENV's enforcement responses to similar past events/circumstances of non-compliance. This will consider similar past events/circumstances of non-compliance throughout the province, throughout the regulated community and over time;

    d) duration of non-compliance;

    e) intent of the violator in committing the non-compliance;

    f) importance of the contravened provision in AENV's overall regulatory scheme;

    g) likelihood that a particular enforcement response will have the desired effect;

    h) degree of co-operation of the violator during the investigation, and in immediately remedying the non-compliance; and

    i) type of offence.

30. Only one of the following enforcement responses will be used for a particular section of legislation contravened as a result of a single occurrence:

    a) written warning,

    b) administrative penalty,

    c) specified penalty ticket, or

    d) mandatory court appearance.

    Any of the above enforcement responses may be used in conjunction with a remedial order or cancellation/suspension/restriction of an authorization.

31. A decision-maker will consider the potential effect of any particular decision on AENV's entire compliance assurance program. The department will not jeopardize the integrity of its enforcement program for the sake of individual cases.

32. If the decision-maker is satisfied that a subject has done all that they reasonably could have done to prevent the contravention, the decision-maker should not levy an administrative penalty or issue a written warning.

33. Where the subject has taken only some steps, but not all they reasonably could have taken to prevent a contravention, the level of a subject's diligence will be a factor for determining the appropriate amount of an administrative penalty.

34. AENV will direct the enforcement response to the appropriate responsible party or parties. In determining who the party or parties the enforcement response will be directed to, AENV will apply the provisions in the legislation that address director and employer liability.

35. At all appropriate junctures, the department will reassess the case and consider whether to pursue other enforcement responses. (For example, a written warning or an administrative penalty may be considered after Alberta Justice indicates they will not prosecute a particular case.)

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Ensuring Procedural Fairness and Administrative Jurisdiction for AENV Administrative Enforcement Responses

Table 1 summarizes how procedural fairness will be achieved for AENV's administrative enforcement responses (remedial order, written warning, administrative penalty, cancellation, suspension or removal of authorization). The general procedural fairness principles listed below:

a) apply to all administrative enforcement responses,

b) apply to a degree proportionate to the significance of the enforcement response, and

c) do not apply to prosecutions. (The court, not the department, is the decision-maker in the prosecution process. The Rules of Court, criminal law principles and precedents govern the prosecution process.)

36. When making an administrative enforcement response decision, the decision-maker will ensure the subject is provided with a procedurally fair process according to the nature and consequences of the enforcement response. This will be done by ensuring the following:

    a) prior to making a decision, the subject knows the case against them. To achieve this, AENV will provide the subject with a description of the circumstances surrounding the contravention and the factors, criteria and information relevant to the enforcement response under consideration. The method of providing this will vary with the enforcement response chosen (see Table 1).

    b) prior to making a decision, the decision-maker has heard the evidence and submissions from investigation staff and from the subject of the enforcement response. ("He who hears, decides.") (see Table 1).

    c) prior to making a decision, the subject has had an opportunity to review and challenge all evidence (including making corrections) and make submissions to the decision-maker (see Table 1). This ensures that the decision-maker has all relevant information.

    d) prior to making a decision, the decision-maker has been satisfied of the facts surrounding the non-compliance.

    e) prior to making a decision, the decision-maker will ensure that he has jurisdiction over the matter under the principles of administrative law. To do this, the decision-maker must meet the following conditions:

        i) he has all relevant information;
        ii) he considers only relevant (as stated in legislation or guidelines) information;
        iii) he does not have any existing or potential conflict of interest;
        iv) his decision will have no appearance of bias; and
        v) his decision making is "unfettered" (i.e. the decision-maker considers the circumstances of each particular case and is not bound by guidelines or any other influences, although guidelines can be consulted for assistance in making the decision.)

    f) the enforcement response decision is made in a timely manner (without undue delay).

    g) after the enforcement response decision is made, the subject will be notified in writing of the enforcement response.

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    b) prior to making a decision, the decision-maker has heard the evidence and submissions from investigation staff and from the subject of the enforcement response. ("He who hears, decides.") **(see Table 1)**.

    c) prior to making a decision, the subject has had an opportunity to review and challenge all evidence (including making corrections) and make submissions to the decision-maker **(see Table 1)**. This ensures that the decision-maker has all relevant information.

    d) prior to making a decision, the decision-maker has been satisfied of the facts surrounding the non-compliance.

    e) prior to making a decision, the decision-maker will ensure that he has jurisdiction over the matter under the principles of administrative law. To do this, the decision-maker must meet the following conditions:

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        v) his decision making is "unfettered" (i.e. the decision-maker considers the circumstances of each particular case and is not bound by guidelines or any other influences, although guidelines can be consulted for assistance in making the decision.)

    f) the enforcement response decision is made in a timely manner (without undue delay).

    g) after the enforcement response decision is made, the subject will be notified in writing of the enforcement response.

37. To ensure a procedurally fair process, when the administrative enforcement response will adversely affect a subject's rights or livelihood, or impose a significant financial penalty on the subject (**see Table 1**), the following will take place:

    a) the decision-maker will create and issue a written record of the decision, which sets out the findings of fact on which the decision was based, and the reasons for the decision (**see Table 1**); and

    b) the subject will be provided the ability to appeal the decision to a tribunal independent of the department (**see Table 1**). (Appeal provisions apply to administrative penalties, some orders and cancellation/suspension/restriction of some authorizations. Appeal provisions do not apply to written warnings or to court-arbitrated enforcement responses such as specified penalty tickets and prosecutions. Appeals to court-arbitrated enforcement responses follow processes established by the Rules of Court and criminal law precedents.)

Table 1: Procedural Fairness Requirements for Specific AENV Administrative Enforcement Responses

Element of Procedural Fairness	Remedial Order	Written Warning	Administrative Penalty	Cancellation/ Suspension Restriction of Authorization
Ensure the Subject knows the case against them; (Disclose evidence to the Subject)	Subject is provided a description of the circumstances surrounding the contravention, *and* Subject is offered the opportunity to review and discuss the case with the decision-maker (Note: Emergency situations are treated differently by legislation.)	Investigation staff review the circumstances surrounding the contravention with the subject in person, or if appropriate, by telephone, *and* Staff document their discussion, and provide this information to the decision-maker.	Subject is provided a description of the circumstances surrounding the contravention, *and* Subject is provided with a copy of the criteria (factors, legislation) used in calculating a penalty, *and* Subject is offered the opportunity to review and discuss the case with the decision-maker.	Subject is provided a description of the circumstances surrounding the contravention, *and* Subject is offered the opportunity to review and discuss the case with decision-maker.
Ensure the Decision-maker has all the evidence and relevant information; (Subject is provided opportunity to challenge the evidence and provide their defence and submissions)	Subject is offered opportunity to present their defence, corrections, and relevant information to decision-maker by written submission, in person or by telephone conference. (Note: Emergency situations are treated differently by legislation.)	Decision-maker does not have to meet with the subject. Investigation staff ask the subject's view on the matter, document it, and provide this information to the decision-maker.	Subject is offered opportunity to present their defence, corrections, and relevant information to decision-maker by written submission, in person or by telephone conference.	Subject is offered opportunity to present their defence, corrections, and relevant information to decision-maker by written submission, in person or by telephone conference.
Written reasons/ findings of fact for the Decision	Decision-maker writes their reasons, including findings of fact. Reasons are provided to the subject.	Written warning sets out basic findings of fact surrounding the contravention.	Decision-maker writes their reasons, including findings of fact, calculation of penalty, and consideration of the degree to which subject's submissions mitigated penalty. Reasons are provided to the subject.	Decision-maker writes their reasons, including findings of fact. Reasons are provided to the subject.
Appeal of the Decision	Subject may appeal most remedial orders to a tribunal independent of department (but that may still report to the Minister of Environment). (Note: This requirement does not apply to legislated "emergency" orders.)	No appeal available	Subject may appeal administrative penalty to a tribunal independent of the department (but that may still report to the Minister of Environment)	Subject may appeal cancellation/ suspension/ restriction of authorization to a tribunal independent of the department (but that may still report to the Minister of Environment) (Note: This requirement does not apply to all types of authorizations)

Use of Table 1 Notes: 1) Elements of procedural fairness are not meant to be sequential; and more than one element of procedural fairness may be achieved in one action. (For example, a written warning issued in the field by an officer, who is an investigator and a decision-maker, may, through one meeting with the subject, achieve the three elements of procedural fairness necessary for a written warning.) 2) The standard for procedural fairness becomes higher as the enforcement response moves from a written warning to an administrative penalty or a cancellation/ suspension/ restriction of an authorization.

After an Enforcement Response is Issued

38. After an enforcement response has been issued, the public will be made aware of the enforcement response.

39. After an AENV administrative enforcement response has been issued:

    a) AENV staff will not negotiate to change the enforcement response; and

    a) AENV will only make the changes expressly permitted in legislation/common law.

40. AENV will ensure that orders are followed up, completed and their related records are closed in a timely manner. To achieve this, AENV will do the following:

    a) adopt processes for a timely follow-up by staff to ensure that the subject is complying and has complied with the terms of the remedial order. This includes systems to track remedial orders, and administrative practices outlining acceptable deadlines for specific steps.

    b) use necessary action to ensure the objectives of orders are achieved. This includes the following:

        i) remedial and follow up enforcement actions; and
        ii) where necessary, a court order to compel compliance with an order issued by AENV, when continued non-compliance with the order occurs.

41. AENV will consider contempt of court proceeding(s) and/or court orders requiring compliance where there is a failure to comply with a court order and there is likely to be a continuing and serious risk to the environment, natural resource, human health or life.

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VIII DEBTS AND COST RECOVERY

AENV refers all outstanding debts arising from department-conducted remedial work or administrative penalties to Alberta Justice, for consideration of cost recovery or debt collection. AENV may refer to Alberta Justice, costs arising from investigations, for consideration of cost recovery.

1. AENV will ensure that the person to whom the administrative penalty was directed pays their administrative penalty.

2. Where a person responsible does not comply with an order and the department subsequently takes action to meet the conditions of the order, the department will take action to recover its costs from those named in the order.

3. AENV will use the following mechanisms when a person has not paid their debt to AENV resulting from an administrative penalty or an AENV conducted remediation:

   a) effective debt collection mechanisms that use all available, reasonable avenues to collect all debts resulting from enforcement responses and the costs in conducting remediation; and

   b) restrictions preventing the violator from both undertaking new activities/operations regulated by AENV and renewing their existing authorizations for regulated activities/operations.

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   a) effective debt collection mechanisms that use all available, reasonable avenues to collect all debts resulting from enforcement responses and the costs in conducting remediation; and

   b) restrictions preventing the violator from both undertaking new activities/operations regulated by AENV and renewing their existing authorizations for regulated activities/operations.

Appendix A

Acts, Regulations and Codes of Practice which Alberta Environment enforces or uses in its compliance assurance program

Environmental Protection and Enhancement Legislation

Environmental Protection and Enhancement Act

- Activities Designation Regulation
- Approvals and Registrations Procedure Regulation
- Beverage Container Recycling Regulation
- Conservation Easement Registration Regulation
- Conservation and Reclamation Regulation
- Environmental Protection & Enhancement (Miscellaneous) Regulation
- Environmental Assessment (Mandatory and Exempted Activities) Regulation
- Environmental Assessment Regulation
- Lubricating Oil Material Recycling and Management Regulation
- Ozone-Depleting Substances Regulation
- Pesticide (Ministerial) Regulation
- Pesticide Sales, Handling, Use and Application Regulation
- Potable Water Regulation
- Release Reporting Regulation
- Substance Release Regulation
- Tire Recycling and Management Regulation
- Waste Control Regulation
- Wastewater and Storm Drainage Regulation
- Wastewater and Storm Drainage (Ministerial) Regulation
- Code of Practice for Landfills
- Code of Practice for Oil Production Sites
- Code of Practice for Compost Facilities
- Code of Practice for Pesticides
- Code of Practice for Exploration Operations
- Code of Practice for Small Vegetable Processing Plants
- Code of Practice for Small Fish Farms and Fish Processing Plants
- Code of Practice for Tanker Truck Washing Facilities
- Code of Practice for Discharge of Hydrostatic Test Water from Hydrostatic Testing of Petroleum Liquid and Natural Gas Pipelines
- Code of Practice for Asphalt Paving Plants
- Code of Practice for Small Meat Processing Plants
- Code of Practice for Foundries
- Code of Practice for Concrete Producing Plants
- Code of Practice for Compressor and Pumping Stations and Sweet Gas Processing Plants
- Code of Practice for Hydrologic Tracing Analysis Studies

Forestry Legislation

Forests Act

- Forest Land Use and Management Regulation
- Forest Recreation Regulation
- Scaling Regulation
- Timber Management Regulation
- Timber Regulation

Forest and Prairie Protection Act

- Forest and Prairie Protection Regulation (Part I)
- Forest and Prairie Protection Regulation (Part II)
- Forest Protection Area Regulation

Forest Reserves Act

- Forest Reserves Regulation

Land Agents Licensing Act

- Land Agents Licensing Regulation

Mines and Minerals Act

- Exploration Regulation
- Metallic and Industrial Minerals Exploration Regulation

Public Lands Legislation

Public Lands Act

- Dispositions and Fees Regulation

Fisheries Legislation

Fisheries (Alberta) Act

- General Fisheries (Alberta) Regulation
- Fisheries (Ministerial) Regulation

Fisheries Act (federal)

- Alberta Fishery Regulation

Wildlife Legislation

Wildlife Act

- Wildlife Regulation

Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (federal)

Migratory Birds Convention Act (federal)

- Migratory Bird Regulation (federal)

Provincial Parks Legislation

Provincial Parks Act

- Dispositions Regulations
- General Regulation

Wilderness Areas, Ecological Reserves and Natural Areas Act

Willmore Wilderness Park Act

Water Management Legislation

Water Act

- Water (Ministerial) Regulation
- Water (Offences and Penalties) Regulation
- Code of Practice for the Temporary Diversion of Water for Hydrostatic Testing of Pipelines
- Code of Practice for Pipelines and Telecommunication Lines Crossing a Water body
- Code of Practice for Watercourse Crossings

Other Legislation AENV May Enforce/Utilize in Part

Criminal Code (federal)

Provincial Offences Procedures Act

Petty Trespass Act

Highway Traffic Act

Motor Vehicle Administration Act

Off Highway Vehicle Act

- Off Highway Vehicle Regulation

Gaming and Liquor Act

Canada Shipping Act (federal)

- Boating Restrictions Regulations
- Small Vessel Regulations

Dangerous Goods Transportation and Handling Act

Appendix B

Documents Describing AENV's Compliance Assurance Business

The following are documents (that are not legislation), that describe how AENV conducts its compliance assurance business:

AENV Departmental documents

1. Alberta Environment's Compliance Assurance Principles (May, 2000)
2. The Department's Role in Environmental Education (July, 1996)
3. Corporate Communications Strategy (March 17, 1997)
4. Alberta Environment's Protocol for the Development, Review and Use of Codes of Practice (June 30, 1999)
5. CCME Memorandum of Understanding for Environmental Emergencies
6. Government of Alberta Protocol for the Coordination of Joint Investigations of Issues of Public Safety (June 20, 1994)
7. Memorandum of Understanding Between Alberta Infrastructure and Alberta Environment (May 2, 2000)- Dangerous Goods Transporation and Handling Act
8. An Agreement on the Equivalency of Federal and Alberta Regulations for the Control of Toxic Substances in Alberta (June 1, 1994)
9. Canada-Alberta Administrative Agreement for the Control of Deposits of Deleterious Substances Under the *Fisheries Act*. (June 1, 1994)
10. Memorandum of Understanding between Alberta Environmental Protection and the Alberta Energy and Utilities Board regarding Co-ordination of Release Notification Requirements and Subsequent Regulatory Response (February 6, 1998) (I.L. 98-1)
11. Memorandum of Understanding between Alberta Environmental Protection and the Energy Utilities Board on Suspension, Abandonment, Decontamination and Surface Land Reclamation of Upstream Oil and Gas Facilities (March 26, 1998) (I.L. 98-2)
12. Alberta Environment/Alberta Agriculture, Food and Rural Development Shared Stewardship Accord (February 24, 1993)
13. Memorandum of Understanding for the cooperative enforcement of the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* (June, 1998).
14. Memorandum of Understanding between Fish and Wildlife Services and Environmental Regulatory Services for the Purpose of Investigation and Enforcement (June 28, 1994)
15. Memorandum of Understanding between the Natural Resources Service and Land and Forest Service for the purpose of Investigation and Enforcement (February 14, 1995)

Land and Forest Service

16. Framework for LFS Enforcement Actions

Natural Resources Service

17. *Water Act* Implementation Manual (Fall, 1998)

18. Operations Manual

19. Parks Policies, Procedures and Directives Manual

20. Enforcement/Visitor Management Manual

21. Standards and Procedures Manual

Environmental Service

22. Enforcement Program for the *Environmental Protection and Enhancement Act* (September, 1994

23. Compliance Inspection Program (December, 1999)

Appendix C

Collection and Release of Information Regarding Compliance Assessment and Enforcement

These principles describe how AENV will collect and provide access to information for its compliance assessment and enforcement activities. The principles outline how AENV will apply the *Freedom of Information and Protection of Privacy Act* (FOIPPA) and the access to information provisions of AENV's legislation.

Release of Personal Information

1. AENV will take a consistent approach in collecting and providing access to similar compliance assurance information.

2. Although anonymity cannot be guaranteed, AENV will take appropriate measures to protect personal information including an individual's name and any information that could be used to confirm an individual's identity. These measures may include:

   a) using identifying numbers/pseudonyms;

   b) recording sources as "anonymous"; or

   c) making a notation on file that an individual was a complainant/informant/reporter and the information was supplied in confidence.

3. Upon request, personal information related to the professional or business capacity of a person working for a corporation, provided by the corporation or an individual acting on behalf of a corporation, will be disclosed.

   - Job-related information about a person carrying out their corporate duties, such as their name, job title, business addresses, business phone numbers, and business fax numbers, is that of the corporation. The disclosure of such information is not considered an unreasonable invasion of personal privacy.

4. Compiled statistical information and documents relating to enforcement responses against an individual may be disclosed.

   - For example, summaries of AENV enforcement responses will be disclosed. These summaries will provide information about specific enforcement responses including the names of offenders.

5. When conducting compliance assurance activities, AENV will only collect personal information that, at the time of the compliance assurance activity, is reasonably required for performing AENV's statutory duties and necessary for meeting the compliance assurance goals of the program.

Information/Reports Submitted to AENV

6. All information/reports required to be submitted to AENV may be disclosed in their entirety, unless the information/report relates to an open investigation or an enforcement proceeding that is under way.
   - This principle is subject to the release of information exemptions and exceptions to disclosure outlined in AENV legislation and FOIPPA.

7. Records/information submissions to AENV are not confidential except where a statute's provisions are applied allowing AENV to keep specific records/information as confidential.
   - When a record/information is submitted with a request for confidentiality and the statute includes an applicable privilege/confidentiality provision, the requirements of the statute will be followed to make a decision whether to provide privilege and confidentiality.
   - When a record/information is submitted on a privileged or confidential basis and there is no applicable privilege/confidentiality provision in the statute:
     i) privilege/confidentiality will be denied;
     ii) the information will be available for disclosure while it is in the possession of AENV;
     iii) the submitter will be advised that the record/information may be released while it is in the possession of AENV; and
     iv) the submitter will be advised that they have a specified time period in which they may request that the record/information be returned to them.

8. Within a specified time period after voluntary submission of records/information to AENV, the department will, at the submitter's request, return records which the submitter does not want disclosed to the public. After the specified time period, and subject to FOIPPA, the records/information will be available for disclosure to the public.

Information Related to Intelligence Activities

9. Intelligence information is confidential and will not be released because of the potential for harm to law enforcement.

Information Relating To Open Investigations

10. Records relating to an open investigation will not be disclosed, except that, subject to FOIPPA and case law relating to administrative fairness, AENV may disclose information to the person who is the subject of the open investigation.

    - Information relating to an open investigation will not be released because it could interfere with a third party's right to a fair trial, or to an impartial adjudication, or cause harm to the prosecution or other disposition if the information was released in advance.

11. Records may be disclosed once the investigation is closed, subject to the provisions in the legislation under which the investigation occurred.

    - Requests for information relating to a closed investigation will be referred to the FOIPPA process, unless the information requested is routinely disclosed by AENV.

12. AENV will follow appropriate records management practices for investigative records including, where practical, clearly identifying on the face of the record/file when an investigation has been commenced and concluded. Investigative records should remain distinct from non-investigative records.

13. Upon request, information leading to the issuance of an order may be released once the order has been issued, even if the investigation is not closed. This does not apply in the following instances:

    a) when the investigation is ongoing for an anticipated prosecution, or

    b) when a prosecution is underway.

Statistical and Summary Information Relating to Enforcement Activities

14. AENV will release enforcement documents and statistical and summary information to the public about enforcement responses undertaken by the department. These documents and information may contain personal information.

Information Relating to Inspections

15. Upon request, information contained in a formal routine inspection report will be disclosed.

    - A formal routine inspection report includes the result of a specific inspection. It may be written in a specific format such as a form, or as a letter or memorandum. A formal routine report does not include an inspector's hand-written notes, or AENV's reports or information on the department's planned compliance assessment programs.

Closure of Investigations and Enforcement Responses

16. AENV will ensure that all records surrounding investigations and enforcement responses are comprehensive and are finalized in a timely manner. To accomplish this, the records will fully document the case by including the following:

    a) any enforcement response taken or reasons why no enforcement response was taken;

    b) the manner in which the enforcement response has been completed;

    c) the manner and time in which each condition or term of an order has been complied with; and

    d) the written notification (to the subject) of completion and closure of an order.